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February 11, 2020

Via Electronic Mail

Honorable Kari K. Steele

and Honorable Members of the Board of Commissioners of the
Metropolitan Water Reclamation District of Greater Chicago
100 East Erie Street
Chicago, Illinois 60611

Re: IIG19-0439 (Open Meetings Act Compliance)

Dear President Steele and Members of the Board of Commissioners:

This letter is written in accordance Section Two of Metropolitan Water Reclamation District of Greater Chicago (MWRD) Ordinance O19-003 (April 18, 2019) and Section 2-289(c) of the Independent Inspector General Ordinance, Cook County, Illinois, Ordinance No. 07-O-52 (2007)(OIIG Ordinance), relative to a review initiated to assess the level of compliance with the training requirements mandated by the Illinois Open Meetings Act (“OMA”). This is a summary report made to apprise you of the results of our review.

Background

The Illinois General Assembly enacted the OMA to provide the public greater access to information concerning its government. 5 ILCS 120/1. Pursuant to the OMA, government entities are required to provide advance notice of all meetings during which any business of a public body is discussed or acted upon and provide access to interested members of the public. There are only certain limited exceptions that have been created by the General Assembly limiting the right of access by the public. 5 ILCS 120/1. As a result, the OMA ensures that public bodies conduct deliberations in the open thereby making those governmental bodies more accountable and transparent while serving the public.

Additionally, in order to foster the important goals of the OMA, a public body must designate employees, officers, or members to complete OMA electronic training in accordance with the statute. *See* 5 ILCS 120/1.05(a). Furthermore, the public body must submit its list of the designated individuals to the Attorney General’s Office for purposes of compliance.

Independent of the public body designations, all elected and appointed members serving on a public body must complete OMA electronic training within a certain timeframe after being elected or appointed to office. 5 ILCS 120/1.05(b). The Public Access Bureau within the Illinois Attorney General’s Office has been mandated to administer the OMA electronic training.

According to the OMA, a “public body” includes all “legislative, executive, administrative or advisory bodies of the State, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees or commissions of this State” See 5 ILCS 120/1.02. Accordingly, the following MWRD entities meet this legal description:

- Metropolitan Water Reclamation District Board of Commissioners
- Metropolitan Water Reclamation District Civil Service Board
- Metropolitan Water Reclamation District Retirement Fund Board of Trustees

OIG Review

In order to assess the MWRD’s compliance with OMA, we obtained information concerning the MWRD public bodies, their respective appointed and elected officials, and the designees for each of these public bodies. We subsequently obtained OMA electronic training records from the Public Access Bureau of the Office of the Attorney General and compared the records to our lists of appointed and elected members serving on MWRD public bodies and MWRD designees to evaluate the level of compliance with OMA. Below are our findings after reconciling this information.

Elected and Appointed Officials

Public officials holding office on January 1, 2012 were required to complete OMA electronic training no later than January 1, 2013. Public officials assuming office after January 1, 2012 were required to complete OMA electronic training within 90 days of taking office. 5 ILCS 120/1.05(b).

This part of our review included an analysis of OMA electronic training records for the nine elected commissioners to the MWRD Board of Commissioners, three appointed members to the MWRD Civil Service Board, and seven elected or appointed members to the Retirement Fund Board of Trustees. The following findings relate to each of the three MWRD public bodies.

MWRD Board of Commissioners

We found that each member of the MWRD Board of Commissioners completed the requisite OMA electronic training within the statutory time limit.

MWRD Civil Service Board

The MWRD Civil Service Board is an administrative body subject to the OMA. The Civil Service Board’s purpose is to adjudicate allegations made against MWRD employees and appeals from the MWRD Director of Human Resources. The Civil Service Board also approves

modifications to the MWRD Personnel Rules and Job Classification Plan. The MWRD Board of Commissioners appoints “Members” to the Civil Service Board.

The MWRD Civil Service Board has three Members. During our review, we found that two of the MWRD Civil Service Board members were appointed before the enactment of OMA. Therefore, these Members were required to complete OMA electronic training within 12 months of the enactment of OMA. These two Members fulfilled their OMA training obligations.

The third Member began serving on the Civil Service Board during 2016. On November 1, 2019, the Public Access Counselor notified us that no records were maintained confirming the third Member had completed OMA electronic training. This Member subsequently completed OMA training on December 5, 2019 as evidenced by a certificate of completion.

MWRD Retirement Fund Board of Trustees

Pursuant to Illinois law, the MWRD Retirement Fund is a public body under the OMA and subject to the requirements contained in OMA.¹ Accordingly, the MWRD Retirement Fund’s Trustees are required to complete electronic OMA training within a certain timeframe after they assume their duties.

The MWRD Clerk provided the OIIG with certificates of completion evidencing that all seven Trustees had completed electronic OMA training within the statutory timeframe.

Designees of a Public Body

OMA Designees and Recordkeeping

Public bodies must complete two principle actions in order to satisfy their obligation pursuant to the OMA electronic training provision. First, OMA requires that all public bodies designate employees, officers or members to receive electronic training and submit a list identifying the designated persons to the Office of the Attorney General’s Public Access Counselor. Second, the designated individuals must complete OMA electronic training each subsequent year of designation.² 5 ILCS 120/1.05(a).

¹ In *Baldermann v. Bd. of Trs. of the Police Pension Fund of Chi. Ridge*, 2015 IL App (1st) 140482, ¶¶ 22-24, the Court found that the Police Pension Fund Board of Trustees was created pursuant to article 3 of the Illinois Pension Code to serve municipalities and that it was a public body within the meaning of the Open Meetings Act. Similarly, the MWRD Retirement Fund was created pursuant to the Illinois Pension Code (article 13).

² If a new employee is designated to receive OMA training, that employee needs to complete the PAC’s electronic training within 30 days of the designation. 5 ILCS 120/1.05

We submitted a request to the Public Access Bureau of the Office of the Attorney General to determine whether the MWRD met its obligation for submitting designee lists. The Public Access Bureau provided us with a response stating, “Please be advised that this office has conducted a search of its records, and we have located no records responsive to these portions of your request.”

Additionally, we requested designee lists directly from the three MWRD public bodies. We were able to obtain a designee list for only the MWRD Retirement Fund.

Although two of the MWRD public bodies failed to submit the requisite lists of individuals designated to complete electronic OMA training, our review revealed that 17 MWRD employees completed the electronic OMA training (excluding elected and appointed members to the MWRD public bodies). The MWRD Clerk informed us that there are no formal lists maintained for MWRD employees designated to take the electronic OMA training. We subsequently learned that this is the case for the MWRD Board of Commissioners and the MWRD Civil Service Board. Finally, our review also revealed that a number of the 17 individual employees who completed the training failed to retake the OMA training each subsequent year of designation.

OIIG Findings and Recommendations

The preponderance of the evidence developed during the course of this review supports the conclusion that the MWRD has substantially complied with the Open Meetings Act. In order to achieve full compliance, we recommend consideration be given to the following:

- Two of the MWRD public bodies failed to submit lists of individuals designated to complete the electronic OMA training pursuant to 5 ILCS 120/1.05(a). Although these MWRD public bodies did not submit lists of designees, there were numerous employees who took electronic OMA training without being designated, in addition to the elected and appointed members to the MWRD public bodies. Going forward, the MWRD public bodies should officially designate individuals for training and submit their lists to the Attorney General’s Public Access Counselor. These designees need to complete OMA electronic training within 30 days and complete the training each year thereafter. Additionally, these designee lists should be updated as additional individuals are designated for OMA electronic training.
- Our review revealed that two of three Members serving on the MWRD Civil Service Board completed electronic OMA training within the requisite timeframe pursuant to 5 ILCS 120/1.05. The third Member did not complete the training within the statutory time period; however, this Member did complete OMA electronic training before this review was completed.

Finally, in accordance with Section 2-285(e) of the OIIG Ordinance, this Office respectfully requests notification within 45 days of any action taken in response to the foregoing

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recommendations. Thank you for your cooperation and assistance with this matter. Please do not hesitate to contact me if you have questions.

Very truly yours,



Patrick M. Blanchard
Inspector General

cc: Metropolitan Water Reclamation District Retirement Fund Board of Trustees
Metropolitan Water Reclamation District Civil Service Board Members
Mr. Brian Perkovich, Executive Director
Ms. Nina, Brody, Clerk of the Civil Service Board
Ms. Susan Morakalis, General Counsel
Ms. Jacqueline Torres, Clerk/Director of Finance